



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
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February 13, 2009

Ms. Cynthia Catri  
U.S. Environmental Protection Agency -  
Region 1, 1 Congress Street  
Boston, Massachusetts 02114-2023

RE: **NEW BEDFORD-BWSC/SME RTN 4-0601**  
Former Aerovox Facility, 740 Belleville Avenue  
**NON-TIME CRITICAL REMOVAL ACTION -**  
**APPLICABLE OR RELEVANT AND**  
**APPROPRIATE REQUIREMENTS**

Dear Ms. Catri:

The Massachusetts Department of Environmental Protection, Bureau of Waste Site Cleanup (MassDEP) has reviewed the Draft Scope of Work dated November 20, 2008 (Draft SOW) for a Non-Time Critical Removal Action (the Removal Action) at the above-referenced disposal site (the Site). MassDEP has also considered the August 1998, *Engineering Evaluation and Cost Analysis (EE/CA)* and the April 2006 *Supplemental EE/CA (SEE/CA)* related to the same, and other relevant Site submittals and correspondence. The Removal Action, as currently contemplated, consists of a controlled demolition of the existing 450,000 square foot building and the transportation and off-Site disposal of the building materials and demolition debris. The Removal Action, as currently contemplated consists of the following main activities which are described more fully in the Draft SOW:

- ◆ Site mobilization and preparation, including utility decommissioning;
- ◆ Hazardous and regulated material removal and disposal;
- ◆ Material removal, demolition, debris processing and loading for off-Site disposal;
- ◆ Basement backfilling;
- ◆ Filling of subsurface features;
- ◆ Placement of cap;
- ◆ Post-removal Site controls.

MassDEP has considered the Applicable or Relevant and Appropriate Requirements (ARARs) compiled for the proposed Removal Action at the Site. The purpose of this letter is to update previous correspondence issued by MassDEP related to the Removal Action and to identify additional State regulations and guidance that MassDEP would like the United States Environmental Protection Agency (USEPA) to consider as the Removal Action progresses that have not been previously identified. Please note that MassDEP's findings related to ARARs are based, in

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part, on the Draft SOW and not on a final document or work plan. As such, should the Draft SOW be altered MassDEP will continue to evaluate whether all stated ARARs have been identified and considered.

MassDEP's findings are also largely based on the understanding that, upon completion of the Removal Action, the Site assessment, remediation and closure will be conducted pursuant to the Massachusetts Waste Site Cleanup Program, under Release Tracking Number (RTN) 4-0601, in accordance with, and in full compliance with, Massachusetts General Law Chapter 21E (MGL c. 21E) and, 310 Code of Massachusetts Regulations (CMR) 40.0000 et seq., the Massachusetts Contingency Plan (the MCP).

### **MassDEP FINDINGS**

MassDEP acknowledges that its previous letter regarding ARARs dated April 12, 2006 identified ARARs specific to the citing and construction of a solid waste landfill at the Site. At the time the letter was written, the demolition debris was to be buried on-Site and capped in place. Given that the current proposal contemplates off-Site transportation and disposal of the material, the majority of the requirements cited in the April 12, 2006 letter would not be relevant, appropriate or applicable, unless otherwise cited herein.

MassDEP concurs with the ARARs as presented in the 1998 EE/CA and the 2006 SEE/CA as clarified or otherwise noted below:

- 1) The 1998 EE/CA recommended that a low permeability cap be placed over the entire 11-acre Site. Subsequently, the 2006 SEE/CA clarified the proposed approach and required a clean protective cover over the entire Site to address the polychlorinated biphenyl (PCB) contamination that will remain on-Site. Both documents cite that the protective cover to be placed at the Site must meet the conditions of a TSCA determination to be made pursuant to 40 CFR 761.61(c) for the activities within the scope of the NTCRA. The draft TSCA determination calls for a risk-based cleanup such that the Removal Action will not pose an unreasonable risk of injury to health or the environment.

Acknowledging that the Massachusetts Waste Site Cleanup Program is a risk-based cleanup program, as detailed in 310 CMR 40.0000, and given that the TSCA determination is specific to direct contact to PCBs in soil only (and does not consider other exposure routes or contaminants of concern at the Site) and that the soil that will remain at the Site under a protective cover may exceed the Upper Concentration Limits (UCL) for certain contaminants, MassDEP requests that the provisions of 310 CMR 40.0996 (4) and (5) be considered as ARARs. MassDEP acknowledges that this would only be relevant if the necessary response actions are not conducted at the Site under MGL c. 21E and the MCP, subsequent to the building demolition and temporary capping activities.

- 2) Table 2 of the SEE/CA indicates that the Massachusetts Hazardous Waste Regulations listed at 310 CMR 30.305, 30.310 and 30.320 do not apply (as was originally presented in Table 14 of the 1998 EE/CA) because the Site is adequately regulated as described at 310 CMR 30.105. However, given that the majority of the material generated during site preparation

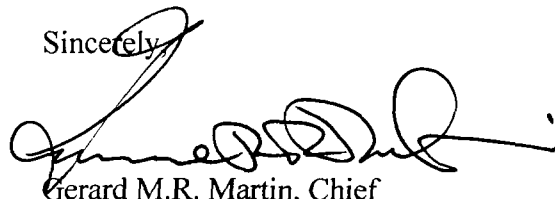
and building demolition is to be transported and disposed of off-Site, MassDEP is of the opinion that the Massachusetts Hazardous Waste Regulations, as cited in the 1998 EE/CA should be considered as ARARs.

- 3) MassDEP also reiterates, as stated in its April 12, 2006 correspondence, that 310 CMR 19.017 Waste Bans be considered as an ARAR and that MassDEP's Guide to Regulations for Using or Processing Asphalt, Brick and Concrete Rubble should be considered (see <http://www.mass.gov/dep/recycle/laws/abc.htm>), particularly related to any material that may be re-used at the Site.
- 4) MassDEP recognizes that an assessment and monitoring program will be developed and implemented over the course of the Removal Action. Should any data be used to support MCP response actions, risk characterization and/or Site closure under the MCP, then MassDEP requests that 310 CMR 40.0017 Environmental Sample Collection and Analysis and 310 CMR 40.0191(2) be considered as ARAR's. MassDEP further recommends that the following policies be evaluated as "guidance to be considered" during the implementation of the Removal Action:
  - o WSC #02-320 Compendium of Quality Assurance & Quality Control Requirements and Performance Standards for Selected Analytical Methods;
  - o WSC#-07-350 MCP Representativeness Evaluations and Data Usability Assessments, and;
  - o MassDEP Method for the Determination of Air-Phase Petroleum Hydrocarbons (APH) dated December 2008.

Again, MassDEP's findings related to ARARs are based on a Draft SOW and the assumed assessment, remediation and closure of the Site under MGL c. 21E and the MCP. MassDEP respectfully reserves the right to re-evaluate ARARs should the Draft SOW be modified significantly. Finally, this Site shall not be deemed to have had all of the necessary and required response actions taken unless and until all substantial hazards presented by the Site have been eliminated and/or a level of No Significant Risk exists or has been achieved in compliance with MGL c. 21E and the MCP.

Thank you in advance for your consideration of this information. If you have any questions relative to the information contained herein, please contact Molly Cote at the letterhead address or by calling 508.946.2792.

Sincerely,



Gerard M.R. Martin, Chief  
Site Management & Enforcement Section

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M/MC/mc

cc: Scott W. Lang, Mayor - City of New Bedford

City of New Bedford, Office of Environmental Stewardship  
Attn: Scott Alfonse, Director

City of New Bedford, Board of Health

Gary Gill-Austern, Esq. - Nutter, McClennen & Fish, LLP

MassDEP - Boston  
ATTN: Jay Naparstek, BWSC  
Andy Cohen, Office of General Counsel

MassDEP-SERO  
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